# UNITED STATES PATENT AND TRADEMARK OFFICE

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| 10/809,687 | 03/26/2004 | Theodore S. Rappaport | WV00015 C01 | 7866 |

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| EXAMINER |
|---|
| COLBERT, ELLA |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>09 January 2008</u>.

2a)☒ This action is **FINAL**.          2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>13-37</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>13-37</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

1.     Claims 13-37 are pending.  Claim 13 has been amended in this communication

filed 01/09/08 entered as Response After Non-Final Action and Request for Extension

of Time.

2.     The 35 USC 112, second paragraph has been overcome by Applicants'

amendment and is hereby withdrawn.

### *Claim Rejections - 35 USC § 103*

3.     The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.     Claim 13 rejected under 35 U.S.C. 103(a) as being unpatentable over  (US

5,337,149) Kozah et al, hereafter Kozah in view of (US 6,509,906) Awe et al, hereafter

Awe.

Claim 13.  Kozah discloses, A computer implemented method for creating or modifying

a drawing or database for representing a physical environment, comprising the steps of:

a) inputting into a computer one or more files, one or more raster images, one or more

vector data, one or more vectors, one or more drawings, or one or more drawing objects

which represent in a computer representation all or part of a physical environment in

which an in-building or campus communications network can be deployed, said

computer representation providing representations of one or more of floors, walls,

partitions, buildings, building complexes or compounds, terrain, foliage, or other sites or

obstructions (col. 2, lines 62-66, col. 7, lines 1 and 2 and lines 55-65, and fig. 1);

b) using a computer for creating, formatting, and editing or manipulating one or more

objects in said computer representation (col. 8, lines 34-55); c) verifying, using a

computer, the sufficiency of said one or more objects to ensure a useful three

dimensional definition of said physical environment for use by a communications

engineering or network management application, and notifying a user of results of said

verification of sufficiency (col. 5, lines 11-14 and col. 8, lines 34-55 and fig. 9). Kozah

does not explicitly disclose step d) generating at least one formatted drawing or

database wherein said at least one formatted drawing or database, or said one or more

objects, or one or more of electrical properties, physical properties, aesthetic properties,

and spatial configurations of said one or more objects are transportable between users

or between one or more communications engineering or network management

applications; although Kozah discloses storing the object/position information in the

CAD database in a CAD application (Kozah col. 9, lines 13-31) and Kozah further

discloses, e) rendering a three dimensional visual representation of said  physical

environment (col. 4, lines 1-12 and abstract). Awe also discloses step b) the grouping

and manipulating of objects into a representation (col. 7, lines 16-20, col. 4, lines 45-61

and fig. 8). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to apply the teachings of Awe to Kozah to create a three

dimensional representation of building data. The motivation to combine would have

been that Kozah gathers the information to build a three dimensional model but does

not disclose the details (Kozah in col. 7, lines 55-65 and Awe in col. 1, line 62-col. 2, line

6) to create a three dimensional view of a building, a deficiency cured by Awe by using

streams (col. 5, line 16-col. 6, line 42) for custom 3D view.

5.      Claims 14-37 are unpatentable over (US 5,337,149) Kozah et al, hereafter Kozah

in view of (US 6,509,906) Awe et al, hereafter Awe and further in view of (US

5,091,869) Ingram et al, hereafter Ingram.

Claim 14 . Kozah and Awe failed to disclose, The method of claim 13 wherein said

notifying performed in said verifying and notifying step is performed in an automatic

fashion without feedback being provided to the user.  Ingram discloses, The method of

claim 13 wherein said notifying performed in said verifying and notifying step is

performed in an automatic fashion without feedback being provided to the user (col. 5,

lines 44-48).

Claim 15 .  Kozah discloses, The method of claim 13 wherein said notifying performed

in said verifying and notifying step is performed by prompting the user and, when

required to provide said useful definition, requires the user to correct any insufficiencies

in response to an insufficiency notification (col. 7, lines 61-65 and col. 8, lines 20-23 and

lines 45-55 and fig. 9).

Claim 16 . Kozah discloses, The method of claim 13 wherein said communications

engineering or network management application is selected from the group consisting of

one or more of wireless propagation prediction, measurement tools, component

placement or layout visualization tools, optimization tools, bill of materials generating

tools, and network performance management or prediction tools (col. 10, lines 26-40).

Claim 17.  Kozah discloses, The method of claim 13 further comprising the step of

adding or deleting at least one object in said at least one formatted drawing or database (Fig. 1); Awe: fig. 1; and Ingram: Fig. 4). Kozah, Awe, and Ingram disclose the claim limitations of claim 17.

Claim 18 . Awe with Kozah discloses the step of The method of claim 13 further comprising the step of editing or modifying at least one object in said at least one formatted drawing or database (Awe: col. 4, line 64-col. 5, line 15 –changing the display representation –col. 4, lines 34-47 –e.g., door swing/modification; Kozah, col. 8, lines 16-19).

Claim 19 . Kozah discloses, The method of claim 13 further comprising the step of moving at least one object in said at least one formatted drawing or database (col. 8, lines 16-19).

Claim 20 . Kozah, Awe, and Ingram do not disclose, The method of claim 13 further comprising the step of removing extraneous items from any of said one or more files, one or more raster images, said one or more vector data, said one or more vectors, said one or more drawings, said one or more drawing objects, or said at least one formatted drawing or database. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teachings of Awe and Ingram in Kozah to electronically collect floor plan information based on images, files, data, and drawings. The motivation would be to use Ingram to increase the accuracy of measurements to eliminate deficiencies.

Claim 21 . Kozah discloses, The method of claim 13 further comprising the step of tracing and adding a traced object to said at least one formatted drawing or database

(col. 2, lines 37-50).

Claim 22 . The method of claim 21 wherein either or both of said steps of tracing and adding are performed before said verifying step.

Claim 23 . Kozah discloses, The method of claim 13 further comprising modifying at least one object of said one or more objects, or at least one of electrical properties, physical properties, aesthetic properties, and spatial configurations of at least one object (col. 1, lines 50-52, col. 2, lines 43-48, and col. 3, lines 15-18).

Claim 24. Kozah and Awe failed to disclose, The method of claim 13 further comprising the step of editing or modifying any of said one or more files, one or more raster images, said one or more vector data, said one or more vectors, said one or more drawings, said one or more drawing objects, or said at least one formatted drawing or database. Ingram discloses, The method of claim 13 further comprising the step of editing or modifying any of said one or more files, one or more raster images, said one or more vector data, said one or more vectors, said one or more drawings, said one or more drawing objects, or said at least one formatted drawing or database (col. 1, lines 16-19-Background of the Invention).

Claim 25. Kozah and Awe failed to disclose, The method of claim 13 further comprising the step of editing or modifying said at least one formatted drawing or database generated in said generating step. Ingram discloses, The method of claim 13 further comprising the step of editing or modifying said at least one formatted drawing or database generated in said generating step (col. 12, lines 48-50)

Claim 26. Kozah and Awe failed to disclose, The method of claim 13 further comprising

the step of removing extraneous objects from said one or more objects. Ingram

discloses, The method of claim 13 further comprising the step of removing extraneous

objects from said one or more objects (col. 12, lines 21-23).

Claim 27. Kozah, Awe, and Ingram failed to disclose, The method of claim 13 further

comprising the step of tracing and adding data representing a traced object. However,

it would have been obvious to one having ordinary skill in the art at the time the

invention was made to trace and add data representing a traced object because it is

much easier to trace an object and to have the object the correct measurements and to

add another object.

Claim 28 . Kozah discloses, The method of claim 13 further comprising the step of

adding measurement data to said at least one formatted drawing or database (fig. 7,

steps 7.06 –7.12)).

Claim 29 (new). The method of claim 13 wherein said verifying step produces a verified

set of data, and further comprising the step of adding measurement data to said verified

set of data.

Claim 30. Kozah failed to disclose, The method of claim 13 further comprising the step

of specifying or invoking a propagation model for performing predictions of performance.

Awe discloses, The method of claim 13 further comprising the step of specifying or

invoking a propagation model for performing predictions of performance (col. 5, lines

19-25 and fig.'s 1 and 2).

Claim 31. Kozah failed to disclose, The method of claim 13 further comprising the step

of specifying or invoking a listing of communications equipment. Awe discloses, The

method of claim 13 further comprising the step of specifying or invoking a listing of communications equipment (col. 3, lines 41-50).

Claim 32. Kozah discloses, The method of claim 13 further comprising the steps of tracing and representing a traced object in a scaled database model of the physical environment (fig. 7, diagram 7.13).

Claim 33 . Kozah failed to disclose, The method of claim 13 wherein said at least one formatted drawing or database generated in said generating step is in a form transportable to and usable by one or more communications engineering or network management applications. Awe discloses, The method of claim 13 wherein said at least one formatted drawing or database generated in said generating step is in a form transportable to and usable by one or more communications engineering or network management applications (col. 3, lines 18-60).

Claim 34. Kozah discloses,The method of claim 13 further comprising the step of prompting a user to enter information required to verify there is sufficient information to produce a verified set of data (col. 1, lines 12-15).

Claim 35 . Kozah discloses, The method of claim 34 wherein said prompting is automatic or implicit (col. 7, lines 61-65).

Claim 36. Kozah and Awe discloses, The method of claim 13 wherein said verifying step produces a verified set of data, and wherein said verified set of data, or said at least one formatted drawing or database, is transportable between users or between one or more engineering design or management applications (col. 9, lines 13-31 and Awe (col. 3, lines 18-60).

Claim 37.  Kozah and Awe failed to disclose, The method of claim 13 further

comprising the step of rendering a two dimensional view representative of said physical

environment.  Ingram discloses, The method of claim 13 further comprising the step of

rendering a two dimensional view representative of said physical environment (col. 2,

lines 12-26).  It would have been obvious to one having ordinary skill in the art at the

time the invention was made to apply the teachings of Ingram in Kozah to allow Kozah

to have a software that is used to make the necessary calculations and to build an X-Y

coordinate file which is employed to provide a floor plan, ceiling plan, roof plan, in a two

dimensional manner.

### Response to Arguments

Applicants' arguments filed 11/09/08 have been fully considered but they are not

persuasive.

Issue no. 1: Applicants' argue: Kozah does not use a computer to create an object

and no such measuring device exists in Applicants' invention as in the Kozah reference

and this is not equivalent of using a computer for creating and formatting, and editing or

manipulating, one or more objects in the computer representation has been considered

but is not persuasive.  Response: Kozah "produces a three dimensional computer

model of a large three dimensional object or space …".  The object has to be produced

(created) according to col. 2, lines 63-66 by the computer.  The data is input by a

computer and associated software and a user checks the data for accuracy (validity).

The user in col. 7, lines 55-65 interacts with the CAD software is capable of

manipulating one of more objects (measurements) in the computer.  Lines 56-59

references "building space, typical elements are wall surfaces, doors, windows, desks, cabinets, and ceilings among others" which are capable of being manipulated or edited in the computer on a computer screen.  Kozah's system is capable of adding elements (objects) or removing elements (objects).  Kozah references in col. 11, lines 21-28 "These points and elements may be created, edited, or displayed either local or global reference frames.  While the present invention has been disclosed in connection with the preferred embodiments thereof, it should be understood that there may be other embodiments which fall within the spirit and scope of the invention".

It is unclear from the claim limitation that the computer actually does the verifying and how it is capable of performing the verifying without some assistance from a user.  It is also unclear how the user is notified of the results.  Is the user notified by a message on the computer screen or by some other means of communication?

Issue no. 2: Applicants' argue: The Kozah reference does not disclose step d) generating at least one formatted drawing or database where in the at least one formatted drawing or database or the one or more objects, or one or more electrical properties, physical properties, aesthetic properties, and spatial configurations of the one or more objects are transportable between users or between one or more communications engineering or network management applications and neither Kozah nor Awe discloses the transportability aspect of the invention has been considered but is not persuasive.  Response: The hardware used by Awe suggests that the objects can be transportable between users or between one or more communications engineering or network management applications in col. 3, lines 18-33 and lines 41-50).

The usage of "or" means the reference(s) only need to disclose one of the features and not both of the features in the claim limitation(s).

Conclusion: Having established that the knowledge is in the art, the examiner could then properly rely as put forth by the solicitor, on a conclusion of obviousness "from common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference". *In re Bozek*, 163 USPQ545 (CCPA 1969).

The court has consistently taken the track that claims yet unpatented are to be given the broadest reasonable interpretation consistent with the specification during examination of a patent application since the Applicant may then amend his claims, the thought being to reduce the possibility that, after the patent is granted, the claims may be interpreted as giving broader coverage than is justified. *In re Prater*, 162 USPQ 541 (CCPA 1969).

Although claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Geuns*, 26 USPQ2d 1057 (CAFC 1993).

### Conclusion

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

## Inquiries

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ella Colbert whose telephone number is 571-272-6741.

The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-

3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dixon Thomas can be reached on 571-272-6803. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/

Primary Examiner, Art Unit 3696

April 28, 2008